

Message

From: "jeff parker" ["jeff parker" | **Ex. 6 PII Jeff parker**]
Sent: 7/18/2010 9:24:35 PM
To: Patricia McGrath/R10/USEPA/US@EPA
CC: Cara Steiner-Riley/R10/USEPA/US@EPA
Subject: RE: Pebble Meeting Concerning Potential NEPA Roles for Tribes
Attachments: mailto:Mcgrath.Patricia@epamail.epa.gov; <http://www.doodle.com/hs525qh63f4nyyvs>

Ms. McGrath,

We might introduce ourselves, by phone, early this week.

As you know, my clients have taken four actions to further efforts to conserve the Kvichak and Nushagak drainages:

- (1) they have sued DNR to overturn the 2005 BBAP,
- (2) they have taken the initiative in their government-to-government relationship with the United States by asking EPA use 404(c) and to ask EPA to work within that relationship to resolve issues preliminary to making a decision on 404(c);
- (3) they have taken the initiative in their government-to-government relationship with the United States to asking COE, and EPA, to commence discussions regarding the tribal governments' status as potential cooperating agencies; and
- (4) they have requested a legislator (Rep. Edgmon) from the area to lead local discussions of whether DNR or ADF&G is the appropriate land manager and whether refuge or CHA legislation is appropriate.

These four actions have a common denominator. It is to create judicial, administrative, or legislative forces, for purposes of decision-making, that absent those forces, would leave decision-making disproportionately to DNR. The second and third rest upon the government-to-government relationship that exists in federal law. The first and fourth rest up matters of state law and relationships. All interrelate, which is to say for example, that reasons for doing 404(c) before permit applications are submitted and for cooperating agency status in the event of not doing so (i.e., the second and third actions by my clients) can be found in the BBAP litigation and the materials submitted to Rep. Edgmon.

After, when I think about the issues, I think it is very hard to defend permitting based on the 2005 BBAP, when:

- (1) the 2005 BBAP uses primarily marine criteria to identify and classify uplands as habitat that are miles from the coast;
- (2) the 2005 BBAP excludes moose and caribou from that process,
- (3) the 2005 BBAP excludes salmon spawning and rearing habitat in non-navigable waters (using the title/ownership test) from that process;
- (4) DNR has a "public recreation land" classification category for land used for sport hunting and sport fishing, but has not parallel category for land used for subsistence hunting and fishing; and
- (5) the 2005 BBAP then defines "recreation" expressly as "does not" refer to "sport hunting and fishing."

In that list, you can see the basis for the common denominator. Putting it simply, I doubt that federal officials will want to defend any decision-making based, in the slightest, on that list. Regardless of the law, the list reflects questionable conduct on the part of DNR.

I look forward to meeting on the phone and in person.

Best regards,

Jeff Parker

907-222-6859

From: Mcgrath.Patricia@epamail.epa.gov [mailto:Mcgrath.Patricia@epamail.epa.gov]
Sent: Sunday, July 18, 2010 9:24 AM
To: jeff parker
Cc: 'Casey, Dave C POA'; Steiner-Riley.Cara@epamail.epa.gov; 'McCafferty, Katherine A POA'; 'Stolzman, Robert L POA'; 'Thomas E. Meecham'; Jen.Mark@epamail.epa.gov
Subject: RE: Pebble Meeting Concerning Potential NEPA Roles for Tribes

Dave -

Can we plan on Aug 13? That way I can attend in person. Anytime before 3 :30 pm works for me.

thanks -

Patty

-----"jeff parker" [Ex. 6 PII Jeff parker] wrote: -----

To: Patricia McGrath/R10/USEPA/US@EPA, "'Casey, Dave C POA'" <Dave.C.Casey@usace.army.mil>
From: "jeff parker" [Ex. 6 PII Jeff parker]
Date: 07/17/2010 04:12PM
Cc: Cara Steiner-Riley/R10/USEPA/US@EPA, "'McCafferty, Katherine A POA'" <Katherine.A.McCafferty2@usace.army.mil>, "'Stolzman, Robert L POA'" <Robert.L.Stolzman@usace.army.mil>, "'Thomas E. Meecham'" [Ex. 6 PII] Mark Jen/R10/USEPA/US@EPA
Subject: RE: Pebble Meeting Concerning Potential NEPA Roles for Tribes

August 13 should work for me. Mr. Meacham will be out of town, but he says to proceed.

Jeff

-----Original Message-----

From: Mcgrath.Patricia@epamail.epa.gov

[mailto:Mcgrath.Patricia@epamail.epa.gov]

Sent: Wednesday, July 07, 2010 9:11 AM

To: Casey, Dave C POA

Cc: Steiner-Riley.Cara@epamail.epa.gov; Geoffrey Parker - Law Office of
Geoffrey Y. Parker; McCafferty, Katherine A POA; Stolzman, Robert L POA;
Thomas E. Meecham; Jen.Mark@epamail.epa.gov

Subject: Re: Pebble Meeting Concerning Potential NEPA Roles for Tribes

Dave -

I just filled in the survey and selected only August 13 (anytime) as a date that works for me. That is because it is the only time that I can be in Anchorage in person for the meeting and I would prefer to be there in person. I checked with other EPA attendees (Mark Jen) and that will work for him.

Let me know if Aug 13 does not work for others and I can come up with alternate dates when I can conference call in.

- Patty

Patty McGrath

Regional Mining Coordinator

US EPA Region 10, OWW-135

1200 Sixth Avenue, Suite 900

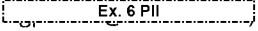
Seattle, WA 98101

(206) 553-0979

mcgrath.patricia@epa.gov

From: "Casey, Dave C POA" <Dave.C.Casey@usace.army.mil>

To: "Thomas E. Meecham" <tmeacham@gsi.net>, "Geoffrey Parker - Law
Office of Geoffrey Y. Parker"

 Patricia McGrath/R10/USEPA/US@EPA, Cara
Steiner-Riley/R10/USEPA/US@EPA,

"Stolzman, Robert L POA" <Robert.L.Stolzman@usace.army.mil>,
"McCafferty, Katherine A POA"

<Katherine.A.McCafferty2@usace.army.mil>

Date: 07/01/2010 01:32 PM

Subject: Pebble Meeting Concerning Potential NEPA Roles for Tribes

Hello Everyone,

The provided link is a scheduling survey intended to assist us in finding date/time to meet and discuss the May 21, 2010 letter from Mr. Parker addressed to Col. Koenig and Mr. John Pavitt.

<http://www.doodle.com/hs525qh63f4nyyvs>

Please try to complete the survey by COB July 6.

Thank you,

dc

Dave Casey
Kenai Field Office Supervisor
U.S.Army Corps of Engineers
805 Frontage Road, Suite 200C
Kenai, Alaska 99611-7755

Ph. 907-283-3519